

Modified PTO/SB/33 (10-05)

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

Q62804

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450 Alexandria, VA 22313-1450

Application Number

09/768,512

Filed

January 25, 2001

First Named Inventor

Hiroshi KODAMA

Art Unit

1764

Examiner

Hien Thi TRAN

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons stated on the attached sheets.

Note: No more than five (5) pages may be provided.

☒ I am an attorney or agent of record.

Registration number 48,294

  
Signature

Allison M. Tulino

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January 19, 2006

Date



**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q62804

Hiroshi KODAMA, et al.

Appln. No.: 09/768,512

Group Art Unit: 1764

Confirmation No.: 5316

Examiner: Hien Thi TRAN

Filed: January 25, 2001

For: METALLIC CARRIER FOR CATALYTIC CONVERTER

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 19, 2005, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

As of the final rejection, dated October 19, 2005, claims 1, 2, 6-8 and 10 are rejected under 35 U.S.C. § 112, first and second paragraphs. Further, claims 1, 2, 6-8 and 10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Nos 4,948,774 or 5,026,611 to Usui et al. ("Usui '774 and Usui '611") alone or in view of JP 08-14143 to Shimada ("Shimada") and U.S. Patent No. 4,248,186 to Nonnenmann et al. ("Nonnenmann"). For the reasons discussed below, Applicant submits that these rejections are improper, and reversal of the outstanding rejections is requested.

The October 19, 2005 Office Action repeats, almost verbatim, the rejections as set forth in the previous May 4, 2005 Office Action. Accordingly, the following are Applicant's comments regarding the Examiner's "Response to Arguments" section on pages 7-9 of the current October 19, 2005 Office Action. When appropriate, Applicant refers to the response to the previous May 4, 2005 Office Action (i.e., the August 4, 2005 Amendment).

Rejections under 35 U.S.C. § 112, first and second paragraphs

On page 7 of the Office Action, the Examiner maintains that the specification does not support the terms "melted" and "unmelted." However for the reasons set forth in the August 4, 2005 Amendment, the specification clearly provides support for the claimed terms (i.e., under MPEP §2163.05, if a limitation is *implicitly* or *inherently* supported in the specification, then it complies with 35 U.S.C. § 112, first paragraph). Based on the Examiner's comments, it appears that the Examiner believes that a term will only have support in the specification if the term is recited *verbatim* in the specification. Such contention is in error.

Rejections under 35 U.S.C. § 103(a)

On pages 7 and 8 of the Office Action, the Examiner appears to maintain that the claimed location of the unmelted brazing foil material is a method of making the carrier or directed to a process, while the claims are directed to an apparatus. However, the position of the unmelted brazing foil material is just as much a part of the structure of the carrier as is the outer cylinder, the groove, etc. The claim is not claiming a process of *how* the unmelted brazing foil material is placed on the carrier. Rather, the recitation is directed to the simple structure of what the carrier

comprises, i.e., the carrier comprises unmelted brazing foil material at a specific position.

Accordingly, such feature should be giving patentable weight, and furthermore, such feature is not taught or suggested by the cited references for at least the reasons presented in the August 4, 2005 Amendment. For example, Usui '774 and '611 both teach that the rods of brazing material 8 (i.e., unmelted material) are placed and held in each of the grooves 7. By being held in the grooves 7, the brazing material, once melted, will not be prevented from flowing toward the exhaust gas inlet side of the cores.

On page 8 of the Office Action, the Examiner maintains that Usui '611 discloses that the fine recesses 7 are not provided at marginal portions of the opposite ends of the honeycomb structure 2, and serve to promote the penetration of the molten brazing material (see Figs. 11-16 of Usui '611). The Examiner assumes that by not providing the fine recesses 7 at the marginal portions, the material will be prevented from flowing towards the ends of the honeycomb structure. However, Usui '611 specifically recites that the molten brazing material is to penetrate, "uniformly over the entire areas of contact between the metal casing 6 and the honeycomb core structure 2 by capillary of the fine recesses 7, thereby joining these two members reliably" (col. 6, lines 36-41 of Usui '611) (emphasis added). Accordingly, since the reference specifically teaches that the material penetrates the "entire" area of contact between the metal casing 6 and the honeycomb core structure 2, which would include the end portions, the fine recesses 7 do not prevent molten brazing material from flowing towards the ends of the honeycomb structure.

Finally, in the August 4, 2005 Amendment, Applicant argued against comments the Examiner made during the July 21, 2005 Interview in regard to Figure 15 of Usui '611. The Examiner had pointed to Figure 15 and maintained that grooves are provided on both ends of the casing, such that if rods of material were placed on only grooves of *one* side, then the reference would still disclose the claimed features since the grooves on the opposite side of the casing would remain empty. In response, Applicant argued that Usui '611 fails to disclose that "unmelted" brazing material is disposed on one end, but not on the other end. Rather, it appears that brazing material will be placed over all grooves, and thus, does not disclose the claimed invention. On page 9 of the current Office Action, the Examiner maintains that the language of the claim is not commensurate in scope with the argument presented (i.e., that brazing material will be disposed on one end of the structure, but not on the other end). However, claim 1 recites a gas outlet side and a gas inlet side, which are two different ends. The unmelted brazing foil material is recited as disposed around an outer periphery of the outlet side, while the solder-rising preventing groove is recited as being defined over the inlet side. As further recited, the unmelted brazing foil material is not disposed in the solder-rising preventing groove.

Based on such recitations, one skilled in the art would clearly understand that since the brazing foil material is not disposed in the solder-rising preventing groove, and since the brazing foil material is disposed at an end (i.e., outlet side) which is opposite to the solder-rising preventing groove (i.e., inlet side), then the brazing foil material is in fact disposed on one end, but not on the other end. Accordingly, contrary to the Examiner's assertion, the recitations of claim 1 are clearly commensurate in scope with the arguments presented in the August 4, 2005

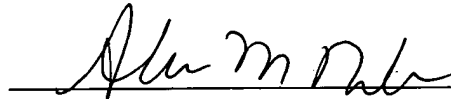
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Amendment. Further, the positioning of the unmelted brazing foil material and the solder-rising preventing groove are related to structure, not a process.

Accordingly, reversal of the outstanding rejections is respectfully requested.

Respectfully submitted,



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